

PTO/SB/26 (01-03)

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**TERMINAL DISCLAIMER TO OBTAIN A DOUBLE PATENTING
REJECTION OVER A "PRIOR" PATENT**Case Number (Optional)
80-00003/USP6

In re Application of: Eugenio Cofali

Application No.: 08/060,657

Filed: October 31, 1997

For: Methods for Treating Hyperlipidemia With Intermediate Release Nicotinic Acid Compositions Having Unique Biopharmaceutical Characteristics

The owner, Kee Pharmaceuticals, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. 5,129,030, as the term of said prior patent is defined in 35 U.S.C. 164 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 164 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

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- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed to whole or terminally disclaimed under 37 CFR 1.321;
- has all claims canceled by a reexamination certificate;
- is reissued, or
- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

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2. ☒ The undersigned is an attorney or agent of record. Reg. No. 61592



Signature

4/7/08
Date

Jahanna M. Corbin

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- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included

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